

REMARKS/ARGUMENTS

Claims 1-27 are pending in this Application.

In the Office Action, claims 1-27 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Claims 1-27 would be allowable over the cited references.

Double Patenting Rejection

The Office Action alleges that claims 1-27 of the present Application are not patentably distinct from claims 1-25 of copending Application No. 10/731,299 and from claims 1-26 of copending Application No. 10/731,655. Therefore, the Office Action provisionally rejects claims 1-27 under the judicially created doctrine of obviousness-type double patenting.

M.P.E.P. § 804(I)(B) instructs that the “provisional” double patenting rejection should continue to be made by the Examiner in each application as long as there are conflicting claims in more than one application unless that “provisional” double patenting rejection is the only rejection remaining in at least one of the applications.

The provisional double patenting rejection is the only remaining rejection in the present Application. Therefore, Applications respectfully request that the Examiner withdraw the rejection.

Appl. No. 10/731,623
Amdt. dated October 10, 2008
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 2136

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,

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